

SUSPECTED FRAUDULENT FECA CLAIMS/GUIDANCE

The following questions were developed as a checklist for ICPAs, safety specialists, and supervisors to review suspect claims, detect suspicious patterns, and determine the need to take administrative action or refer claims to the appropriate investigative services for criminal investigation.

Information obtained from the questions is intended as a guideline only. Except for questions 14 through 21, a "yes" answer to any one question may not be sufficient to refer a claim to the investigative services, unless there is other information that suggests a problem. More than one "yes" answer may suggest a pattern, and a "yes" answer to questions 14 through 21 should be discussed with investigative personnel. Rationale for the questions is set forth in the discussions below:

SECTION I: ANSWER THE FOLLOWING QUESTIONS FROM INFORMATION OBTAINED.

DATE BEGAN CURRENT EMPLOYMENT: Was injury reported in the first pay period of employment? An injury reported in the first pay period may indicate the claimant did not report a preexisting injury. Examine the Form CA-7, Item 24 for all claimants filing new injury claims. Interview co-workers to find out if the condition existed at the onset of employment.

TOTAL LEAVE BALANCE: Was employee's leave balance very low at time of the injury (for example, five days or less total leave)? Claimants are authorized COP for up to 45 calendar days without loss of leave or break in pay. These payments can act as an incentive for employees to use COP as a substitute for leave. The above factors may indicate that the injury was feigned or its severity exaggerated. Review leave records to identify previous leave problems.

NATURE OF INJURY: Did injury involve soft tissue damage that could be feigned or could have occurred off duty, such as back or muscle strain? Compare claimant and physician descriptions of the injury and examine the Forms CA-1, Item 14, CA-16 and CA-20. Interview supervisors, co-workers, witnesses, and treating physician to develop information indicative of a feigned injury.

DATE INJURY OCCURRED/DATE INJURY REPORTED: Was injury reported on the date it occurred? If not, see discussion in Question 6 below.

SECTION II: THESE QUESTIONS ATTEMPT TO DISCLOSE PROBLEMS IN THE FOLLOWING AREAS.

QUESTION 1: Claims presented by employees who are known to engage in strenuous outside activities may indicate an injury was not job-related. Interview supervisor, co-workers and individuals known to participate with the claimant in outside activities to determine their knowledge of the injury.

QUESTION 2: Employees must establish that injuries were caused or related to their job, or that preexisting injuries or illnesses were accelerated or aggravated because of their employment. If similar medical treatment was received before the job-related injury, the injury (aggravation) may have been feigned or non-job-related. If a prior non-job-related condition is discovered, make inquiries concerning prior treatment with supervisor and co-workers, and obtain information about the injury from the treating physician. Also, examine Forms CA-1, Items 10 and 13, and CA-16, Items 15 and 16. **NOTE:** It is also important to identify any preexisting injury or illness in that the new injury may only temporarily aggravate the old. Normally, after a short recuperation period, the aggravation will cease and the old condition returns to its normal state. At this time, the original illness or injury (aggravation) is no longer compensable under the FECA.

QUESTION 3: An unjustified change of physicians may indicate the claimant received a "fitness for work" diagnosis from the attending physician and changed physicians to stay on compensation. Check the name of the current physician with the physician indicated on the Form CA-16. Obtain a statement from the attending physician and consider obtaining further medical examinations or specialized tests if no apparent reason exists for the change.

QUESTIONS 4: Question claimant and review claim files and the Official Personnel Folder for evidence of outside employment. All income from such employment including unremunerated employment must be reported to OWCP. It is possible that the injury may have been caused by secondary employment. Also, claimants may conceal outside income or perform outside work with no pay and continue to receive compensation to which they are not entitled. The SF 171 provides information about the claimant's work experience and past employers. Immediately report suspicions regarding undisclosed earnings or work without pay.

QUESTION 5: Claimants could be overstating their degree of disability and abusing the system. They may be performing volunteer work for various organizations such as churches, boy scouts, girl scouts, and coaching sporting events. Evidence to support this could mean that the claimant

is capable of performing some type of suitable work and is not as disabled as the treating physician states. Send such evidence to OWCP and request that the treating physician, or an impartial medical examiner, make a determination of the claimant's medical limitations.

QUESTION 6: Claimants could fraudulently claim a job-related injury immediately following a weekend, holiday, or vacation, for an injury that occurred during an off-duty period. Interview the claimant's supervisor, witnesses, and co-workers to develop information, and review Form CA-1, Items 10, 21, 22 and 32.

QUESTION 7: Review claim files for employees who have transferred or separated and were injured near the end of their employment. Interview supervisors, co-workers, witnesses and, if possible, treating and activity physicians to develop information indicative of a feigned injury or a claim for a preexisting injury or illness. A review of the employee's medical records and OPF may be helpful.

QUESTION 8: Temporary employees are entitled to COP during their appointment and compensation after their termination date. A claim reported at or near the end of the temporary employment period may indicate that the claimant feigned the injury to continue drawing an income. Examine further if a negative answer is indicated in Item 25 of the Form CA-7.

QUESTIONS 9: Claimants may attempt to use COP as a substitute for leave or feign an injury to avoid disciplinary action. Obtain a copy of the SF 71 and statement from the supervisor or person denying the leave request or documentation concerning any proposed disciplinary action taken.

QUESTION 10: Examine Form CA-1, Item 35 to learn the supervisor's reasons for controverting the claim. Although the rationale for controversion may not meet statutory requirements for termination or denial of COP, there may be other factors that have a bearing on the legitimacy of the claim. Once the supervisor provides the rationale for recommending denial, other information may surface.

QUESTION 11: A correlation of dates when COP was taken may indicate that a claimant has seasonal employment or is vacationing during the same period each year. Review the Form CA-1 and historical records. Obtain copies of payroll leave and attendance records and any disciplinary actions. Interview supervisor, co-workers, and witnesses to obtain information on circumstances surrounding the injury.

QUESTIONS 12: Review claim files to identify employees who act as witnesses for each other. Also, review files to identify employees who have submitted numerous claims. Compare Form CA-1, Items 1, 7, 14 and 16 to learn if the same individuals have acted as witnesses. If patterns are revealed, obtain details of the injuries and how they occurred.

QUESTION 13: Many claimants may use the same physician to establish job-related injury claims. Review claim files to detect if the same physician certified job-related injuries for several employees. Refer suspicions of conspiracy and false medical certification to the appropriate investigative services.

QUESTION 14: Instances have been discovered in which compensation was paid for a new or subsequent non-job related injury or illness for which no new documentation was prepared. Medical bills for the new injury may be included with those for the original injury and paid due to lack of scrutiny. Compare Form CA-20 with Form CA-1. If such information is received, interview the attending physician and determine if the claimant was treated for a subsequent injury. Interview supervisors and co-workers about their knowledge of the second injury and its circumstances. Inform the appropriate investigative services and the servicing OWCP office of the allegations.

QUESTION 15: Claimants may have received compensation for a lengthy period without support of medical evidence of disability. Compare the agency case file and the DOL chargeback bills to find out if medical bills are being paid. If not, request OWCP to provide reasons why not, and to provide a current medical report and OWCP-5.

QUESTION 16: Claimants may provide false information on documents when initiating a claim, or alter information provided by supervisors and witnesses, or make written false statements to OWCP. Also, a claimant may have access to physician reports and alter medical information concerning the severity of the injury, the manner in which it occurred, and the effect it will have on future job performance. These forms could also be acquired independently and forwarded to OWCP with false information or forged physician's signature. Attach questionable documents to cases referred for investigation.

QUESTION 17: Compare statements of claimant, supervisor, witnesses, and treating physician; especially if the claimant is not certain of data such as time and date of injury, place injury occurred, or circumstances surrounding the injury.

QUESTION 18: Review statements of witnesses and the claimant's description of how the injury occurred on the Form CA-1. If no witnesses are listed on the Form CA-1, identify and interview individuals who might have witnessed the injury or raised questions concerning the plausibility of the claimant's statement. Discuss the possibility that the claimant may have influenced others to support the claim even though they did not actually witness the incident.

QUESTION 19: Claimants may provide false information on documents when initiating a claim, alter information provided by supervisors and witnesses, or make false statements to OWCP. Also, a claimant may have access to physician reports and alter medical information pertaining to severity of injury, the manner in which it occurred, and the effect it will have on future job performance. These forms could also be acquired independently and forwarded to OWCP with false information or forged physician's signature. Attach questionable documents to cases referred for investigation.

QUESTION 20: Compare statements of claimant, supervisor, witnesses, and treating physician; especially if claimant is not certain of such data as time and date of injury, place injury occurred, or circumstances surrounding the injury.

QUESTION 21: Review statements of witnesses and claimant's description of how the injury occurred on the Form CA-1. If no witnesses are listed on the Form CA-1, identify and interview individuals who might have witnessed the injury or raised questions concerning the plausibility of the claimant's statement. Discuss the possibility that the claimant may have influenced others to support the claim even though they did not actually witness the incident.

STATEMENT OF RECOVERY

CLAIMANT: John J. James

FILE NUMBER: A12-0123456

DATE OF INJURY/DEATH: 6-30-90

EMPLOYING AGENCY: 1111AA

(1) Gross Recovery	\$ <u>955,000</u>
(2) Less Property Damage	<u>0</u>
(3) Balance	<u>955,000</u>
(4) Less Attorney's Fee (Fee is <u>40%</u> of line 3)	<u>(382,000)</u>
(5) Balance	<u>573,000</u>
(6) Less Court Costs (Must be itemized)	<u>24,784</u>
(7) Balance (Adjusted Gross Recovery)	<u>548,216</u>
(8) Less 1/5 (20% of line 7)	<u>(109,643)</u>
(9) Balance	<u>438,573</u>
(10) Less Payment to Public Health Service (or other Federal medical facility)	<u>0</u>
(11) Balance	<u>438,573</u>
(12) Less Medical Expenses Paid by the Claimant	<u>0</u>
(13) Balance	<u>438,573</u>
(14) OWCP Disbursements (including compensation and medical but excluding COP) or line 13 above whichever is less	<u>111,430</u>

Figure 810-61. Sample Statement of Recovery with Instructions.

(15) Less Government Allowance for Attorney's Fee (retained by claimant)	<u>44,572</u>
(16) Net OWCP Refund	<u>66,858</u>
(17) Surplus (line 13 less line 14)	<u>327,143</u>

Figure 810-61 Continued. Sample Statement of Recovery with Instructions.

INSTRUCTIONS

Distribution must be made in accordance with 5 U.S.C. 8132.

PROPERTY DAMAGE (Line 2) A reasonable amount for clothing or other personal belongings damaged or destroyed in an accident may be deducted. These amounts should be itemized. If an automobile or other vehicle is damaged or destroyed, furnish the year, make and model, and the Blue Book value of the vehicle. A copy of the repair bill will suffice if the vehicle was not totally destroyed.

ATTORNEY'S FEE 9 (Line 4) The attorney's fee in line 4 is deducted from the balance shown in line 3. Also, the attorney's fee as a percentage of line 3 should be shown.

COURT COSTS (line 6) These would consist only of such items as filing fees, witness fees, actual costs of collection, or any payments to physicians for expert testimony as opposed to payment for treatment. (Payment for medical treatment would come under line 12 and/or 14.) All items must be itemized.

20% GUARANTEE (Line 8) The amount is turned over to the claimant and is not subject to any deductions.

PUBLIC HEALTH SERVICE (Line 10) Refund made to a Federal medical facility for treatment would be deductible under line 10. The claim of the Federal medical facility is separate and apart from the claim of the OWCP.

MEDICAL EXPENSE PAID DIRECT (Line 12) This would consist of any medical expenses paid by the claimant other than those paid by the OWCP or by an insurance carrier. It would not include items paid by the claimant and subsequently reimbursed by the OWCP or an insurance carrier. All items submitted for credit and deduction in line 10 must be itemized or accompanied by copies of paid bills. A lump sum amount will not be accepted for credit. The total OWCP disbursement is subject to the refund provisions of the Federal Employees' Compensation Act. However, if the balance remaining in line 14 is less than the actual OWCP disbursement, then the refund provision would apply to the amount shown on line 14.

GOVERNMENT ALLOWANCE FOR ATTORNEY'S FEE (Line 15) The Government contributes a portion of its refund to the claimant as an attorney's fee. This fee is based upon the OWCP's disbursements or other amount as shown in line 14 and is computed by applying the percentage shown in line 4 to line 14 if line 4 is considered reasonable.

TOTAL REFUND (Line 16) This represents the amount to be refunded to the Government for OWCP disbursements.

SURPLUS (Line 17) This surplus, which is retained by the claimant, is the amount against which the OWCP will credit any future compensation payments or additional medical expenses payable on account of the same injury or death.

The refund check for the amount shown in line 16 should be made payable to "U.S. Department of Labor, OWCP." It should be sent to the following address:

U.S. Department of Labor
Appropriate Lockbox Address